



## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R07-OAR-2019-0708; FRL-8711-02-R7]**

### **Air Plan Approval; Iowa; Polk County; State Implementation Plan**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving revisions to the Iowa State Implementation Plan (SIP) to include changes to the Polk County Board of Health Rules and Regulations in addition to revisions from past submittals. The revisions update definitions and references to the effective dates of Federal rules approved into the State's SIP, prohibit burning of demolished buildings, update references to methods and procedures for performance test/stack test and continuous monitoring systems, and revise permitting exemptions. These revisions will not adversely impact air quality and will ensure consistency between the State and Federally approved rules.

**DATES:** This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2019-0708. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as

copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Doolan, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; (913) 551-7719; email address: [doolan.stephanie@epa.gov](mailto:doolan.stephanie@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” and “our” refer to the EPA.

## **Table of Contents**

- I. What is Being Addressed in this Document?
- II. Have the Requirements for Approval of a SIP Revision Been Met?
- III. What Action is the EPA Taking?
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

### **I. What is Being Addressed in this Document?**

The EPA is approving updates to Chapter V of the Polk County Board of Health Rules and Regulations pertaining to air quality into Iowa’s SIP. Detailed information regarding the revisions is included in the Technical Support Document (TSD) that is in the docket for the EPA’s proposed approval (88 FR 40392, July 28, 2021).

The revisions to the Iowa SIP incorporate Polk County’s

updated definitions and references to the effective dates of Federal rules approved into the State's SIP, update references to methods and procedures for performance test/stack test and continuous monitoring systems, prohibit burning of demolished buildings, and revise permitting exemptions. The approved revisions to the Iowa SIP also grant Polk County the ability to publish public notices and provide the opportunity to comment on permit modifications online rather than in area newspapers which is consistent with recent revisions to Iowa's SIP (83 FR 191, October 2, 2018).

As stated in the proposed approval, the EPA is not acting on portions of Polk County Chapter V that amend Standards for Marijuana Production and Marijuana Processing (section 5-21), Permits for New and Existing Stationary Sources, and Chapter 10-59, Permit Fees, that pertain to Prevention of Significant Deterioration (PSD) regulations because Iowa has not delegated the PSD program authority to Polk County.

The EPA is also approving minor changes to the text of various ordinances that were previously submitted to the EPA but were inadvertently omitted from previous actions. These revisions were contained in submittals dated December 3, 2007, September 1, 2009, September 19, 2011, April 15, 2014, and November 25, 2015.

## **II. Have the Requirements for Approval of a SIP Revision Been Met?**

The state's submittals met the public notice requirements

for SIP submissions in accordance with 40 CFR 51.102. The submittals also satisfy the completeness criteria of 40 CFR part 51, appendix V. In addition, the EPA has determined that the revisions meet the substantive SIP requirements of the CAA, including section 110 and implementing regulations. These revisions are also consistent with applicable EPA requirements of title V of the CAA and 40 CFR part 70.

The EPA proposed approval of the Polk County Code of Regulations revisions into the Iowa SIP in a *Federal Register* document dated July 28, 2021 (88 FR 40392). The 30-day public comment period closed on August 27, 2021. No comments were received.

### **III. What Action is the EPA Taking?**

The EPA is taking final action to approve revisions to the Iowa SIP to include the revisions to Chapter V of the Polk County Code of Regulations pertaining to air quality.

The EPA has determined that approval of these revisions will not impact air quality and will ensure consistency between the state and federally-approved rules, and ensure Federal enforceability of the state's revised air program rules.

### **IV. Incorporation by Reference**

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Iowa Regulations described in

the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Therefore, these materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>1</sup>

## **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

---

<sup>1</sup> 62 FR 27968, May 22, 1997.

- ☐ Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- ☐ Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- ☐ Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- ☐ Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- ☐ Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- ☐ Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- ☐ Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- ☐ Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and

- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Continuous monitoring systems, Incorporation by reference, Performance and stack testing, and Reporting and recordkeeping requirements.

Dated: September 10, 2021.

Edward H. Chu,  
*Acting Regional Administrator,*  
*Region 7.*



For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

**PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart Q-Iowa**

2. In §52.820, the table in paragraph (c) is amended by revising the entry "Chapter V" under the heading "Polk County" to read as follows:

**§52.820 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

**EPA-APPROVED IOWA REGULATIONS**

| Iowa citation  | Title   | State effective date | EPA approval date  | Explanation   |
|--|---|----------------------|--|---|
| Iowa Department of Natural Resources Environmental Protection Commission [567] |   |                      |  |   |
| * * * * *  |   |                      |  |   |
| Polk County  |   |                      |  |   |
| Chapter V  | Polk County Board of Health Rules and Regulations Air Pollution Chapter V | 11/30/18             | [insert date of publication in the Federal Register], [insert Federal Register citation] | Article I, Section 5-2, definition of "anaerobic lagoon" and "variance;" Article III, Incineration and Open Burning, Section 5-7(d) Variance Application; Article VI, Sections 5-16(n), (o) and (p); Article VIII; Article IX, Sections 5-27(3) and (4); Article X, Section 5-28, subsections (a) |

| Iowa<br>citation | Title | State<br>effective<br>date | EPA approval<br>date | Explanation  |
|------------------|-------|----------------------------|----------------------|--|
|                  |       |                            |                      | through (c), and<br>Article X, Section 5-<br>35(b)(5); Article<br>XIII; Article XIV; and<br>Article XVI, Section<br>5-75 B are not part of<br>the SIP. |
| * * * * *        |       |                            |                      |  |

\* \* \* \* \*

[FR Doc. 2021-20157 Filed: 9/20/2021 8:45 am; Publication Date: 9/21/2021]